

# EXHIBIT 1

## Melissa D. Wischerath

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**From:** Melissa D. Wischerath  
**Sent:** Friday, April 26, 2024 10:16 AM  
**To:** 'Hillery, Michael J.'  
**Cc:** 'James P. Blenk'; Williams III, Paul J.; Kaylie R. Horowitz  
**Subject:** RE: Doe v Erie County

Thanks Mike,

One clarification, it wasn't a thought, I was following up on your earlier request that I obtain them so the DA file could be produced.

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**From:** Hillery, Michael J. <Michael.Hillery@erie.gov>  
**Sent:** Friday, April 26, 2024 10:00 AM  
**To:** Melissa D. Wischerath <mwischerath@lglaw.com>  
**Cc:** 'James P. Blenk' <jblenk@lippes.com>; Williams III, Paul J. <Paul.Williams@erie.gov>; Kaylie R. Horowitz <khhorowitz@lglaw.com>  
**Subject:** RE: Doe v Erie County

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Good Morning Melissa,

I appreciate the thought, but unfortunately we are bound by the civil rights law and HIPAA, and Ms. Brooks is not authorized to waive other potential victims' privacy of records.

Mike

--

**Michael J. Hillery** | Assistant District Attorney  
Erie County | District Attorney  
25 Delaware Ave., 7th Floor | Buffalo, NY 14202  
P: +1(716)858-2473 | F: +1(716)858-7425  
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**From:** Melissa D. Wischerath <[mwischerath@lglaw.com](mailto:mwischerath@lglaw.com)>  
**Sent:** Thursday, April 25, 2024 10:33 AM  
**To:** Hillery, Michael J. <[Michael.Hillery@erie.gov](mailto:Michael.Hillery@erie.gov)>  
**Cc:** 'James P. Blenk' <[jblenk@lippes.com](mailto:jblenk@lippes.com)>; Williams III, Paul J. <[Paul.Williams@erie.gov](mailto:Paul.Williams@erie.gov)>; Kaylie R. Horowitz <[khhorowitz@lglaw.com](mailto:khhorowitz@lglaw.com)>  
**Subject:** RE: Doe v Erie County

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Mike,

I spoke with Julie Brooks and she agreed to sign off a HIPPA authorization, on the understanding that the materials relating to the victims in the file, including herself, would be subject to our protective order in this action pertaining to PREA materials. Let me know if that resolves your concerns and need for the motion.



**Melissa D. Wischerath**  
Attorney at Law

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TEL 716 849 1333 x397 | FAX 716 855 1580  
[email](#) | [profile](#) | [website](#) | [map](#) | [vCard](#)

---

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**From:** Hillery, Michael J. <[Michael.Hillery@erie.gov](mailto:Michael.Hillery@erie.gov)>  
**Sent:** Thursday, April 25, 2024 9:56 AM  
**To:** Melissa D. Wischerath <[mwischerath@lglaw.com](mailto:mwischerath@lglaw.com)>  
**Cc:** 'James P. Blenk' <[jblenk@lippes.com](mailto:jblenk@lippes.com)>; Williams III, Paul J. <[Paul.Williams@erie.gov](mailto:Paul.Williams@erie.gov)>; Kaylie R. Horowitz <[khorowitz@lglaw.com](mailto:khorowitz@lglaw.com)>  
**Subject:** RE: Doe v Erie County

Thank you.

--  
**Michael J. Hillery** | Assistant District Attorney  
Erie County | District Attorney  
25 Delaware Ave., 7th Floor | Buffalo, NY 14202  
P: +1(716)858-2473 | F: +1(716)858-7425  
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**From:** Melissa D. Wischerath <[mwischerath@lglaw.com](mailto:mwischerath@lglaw.com)>  
**Sent:** Wednesday, April 24, 2024 1:38 PM  
**To:** Hillery, Michael J. <[Michael.Hillery@erie.gov](mailto:Michael.Hillery@erie.gov)>  
**Cc:** 'James P. Blenk' <[jblenk@lippes.com](mailto:jblenk@lippes.com)>; Williams III, Paul J. <[Paul.Williams@erie.gov](mailto:Paul.Williams@erie.gov)>; Kaylie R. Horowitz

<[khorowitz@lglaw.com](mailto:khorowitz@lglaw.com)>

Subject: RE: Doe v Erie County

[Caution: this email is **not** from an Erie County employee: attachments or links **may not be safe.**]

Sure. Please let this confirm that the subpoena is returnable on or before **May 10, 2024**.

Thank you.



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**From:** Hillery, Michael J. <[Michael.Hillery@erie.gov](mailto:Michael.Hillery@erie.gov)>

**Sent:** Wednesday, April 24, 2024 9:28 AM

**To:** Melissa D. Wischerath <[mwischerath@lglaw.com](mailto:mwischerath@lglaw.com)>

**Cc:** 'James P. Blenk' <[jblenk@lippes.com](mailto:jblenk@lippes.com)>; Williams III, Paul J. <[Paul.Williams@erie.gov](mailto:Paul.Williams@erie.gov)>; Kaylie R. Horowitz <[khorowitz@lglaw.com](mailto:khorowitz@lglaw.com)>

**Subject:** RE: Doe v Erie County

Good morning Melissa,

Thank you for your reply and for your understanding. Could we make the subpoena returnable on May 10? It would be much appreciated.

Let me know if that will work for you.

Thank you.

Mike

--

Michael J. Hillery | Assistant District Attorney  
Erie County | District Attorney  
25 Delaware Ave., 7th Floor | Buffalo, NY 14202  
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[Michael.Hillery@erie.gov](mailto:Michael.Hillery@erie.gov) | <http://www.erie.gov>

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**From:** Melissa D. Wischerath <[mwischerath@lglaw.com](mailto:mwischerath@lglaw.com)>

**Sent:** Tuesday, April 23, 2024 5:58 PM

**To:** Hillery, Michael J. <[Michael.Hillery@erie.gov](mailto:Michael.Hillery@erie.gov)>

**Cc:** 'James P. Blenk' <[jblenk@lippes.com](mailto:jblenk@lippes.com)>; Williams III, Paul J. <[Paul.Williams@erie.gov](mailto:Paul.Williams@erie.gov)>; Kaylie R. Horowitz



<[khorowitz@lglaw.com](mailto:khorowitz@lglaw.com)>

Subject: RE: Doe v Erie County

[Caution: this email is **not** from an Erie County employee: attachments or links **may not be safe**.]

Thank you for the update. I am glad we tried to work it out collectively and without a need for judicial intervention but understand that your office has decided to proceed by moving to quash.

The subpoena was originally returnable on April 2, 2024. I agreed to suspend that deadline while we conferred. Now that we are done conferring, please let this email confirm that the subpoena is returnable on or before **May 3, 2024**.

This way we have a deadline to work from. If that date doesn't work let me know tomorrow and we can adjust. Have a good night.



---

From: Hillery, Michael J. <[Michael.Hillery@erie.gov](mailto:Michael.Hillery@erie.gov)>

Sent: Tuesday, April 23, 2024 10:59 AM

To: Melissa D. Wischerath <[mwischerath@lglaw.com](mailto:mwischerath@lglaw.com)>

Cc: 'James P. Blenk' <[jblenk@lippes.com](mailto:jblenk@lippes.com)>; Williams III, Paul J. <[Paul.Williams@erie.gov](mailto:Paul.Williams@erie.gov)>

Subject: Doe v Erie County

Hi Melissa,

I've had a chance to discuss your proposal (case management order) with Paul Williams and also with JP Blenk. Paul and I have decided that the best and safest way to proceed is to file a motion to quash and allow the court to resolve the matter. We don't want to be obstructionist; contents in our file are accorded protections under state law and are sensitive, as you know, and we deem ourselves obligated to honor those protections, and accountable for failure to do so.

We will file the motion soon.

Thank you for your patience and cooperation.

Mike

--

Michael J. Hillery | Assistant District Attorney  
Erie County | District Attorney  
25 Delaware Ave., 7th Floor | Buffalo, NY 14202  
P: +1(716)858-2473 | F: +1(716)858-7425  
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## Melissa D. Wischerath

---

**From:** Melissa D. Wischerath  
**Sent:** Tuesday, April 23, 2024 10:22 AM  
**To:** 'Hillery, Michael J.'  
**Subject:** RE: Activity in Case 1:22-cv-00815-JLS-JJM Doe v. Erie County et al Order on Motion for Discovery

Thank you. If you are able to get a hold of JP and need me for a call, I am generally around this week, I just had depositions that were set for this week get canceled.

---

**From:** Hillery, Michael J. <Michael.Hillery@erie.gov>  
**Sent:** Tuesday, April 23, 2024 9:43 AM  
**To:** Melissa D. Wischerath <mwischerath@lglaw.com>  
**Subject:** RE: Activity in Case 1:22-cv-00815-JLS-JJM Doe v. Erie County et al Order on Motion for Discovery

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Hi Melissa,

I hope all is well. I just wanted to acknowledge your e-mail from yesterday and let you know I'll be getting back to you soon as to your proposal – yesterday got a bit chaotic.

Mike

--

Michael J. Hillery | Assistant District Attorney  
Erie County | District Attorney  
25 Delaware Ave., 7th Floor | Buffalo, NY 14202  
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**From:** Melissa D. Wischerath <[mwischerath@lglaw.com](mailto:mwischerath@lglaw.com)>  
**Sent:** Monday, April 22, 2024 10:57 AM  
**To:** Hillery, Michael J. <[Michael.Hillery@erie.gov](mailto:Michael.Hillery@erie.gov)>  
**Cc:** Williams III, Paul J. <[Paul.Williams@erie.gov](mailto:Paul.Williams@erie.gov)>  
**Subject:** RE: Activity in Case 1:22-cv-00815-JLS-JJM Doe v. Erie County et al Order on Motion for Discovery

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Hi Mike. Hope you had a nice weekend. Let me know if you were able to connect with JP Blenk and we can agree to follow the current CMO order on materials?

Also, can we put a deadline on this? Maybe on or before May 20? Thanks.



**Melissa D. Wischerath**  
Attorney at Law

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TEL 716 849 1333 x397 | FAX 716 855 1580  
email | profile | website | map | vCard

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**From:** Melissa D. Wischerath  
**Sent:** Monday, April 15, 2024 10:08 AM  
**To:** 'Hillery, Michael J.' <[Michael.Hillery@erie.gov](mailto:Michael.Hillery@erie.gov)>  
**Cc:** Williams III, Paul J. <[Paul.Williams@erie.gov](mailto:Paul.Williams@erie.gov)>  
**Subject:** RE: Activity in Case 1:22-cv-00815-JLS-JJM Doe v. Erie County et al Order on Motion for Discovery

I probably know a few. But hard to know.

---

**From:** Hillery, Michael J. <[Michael.Hillery@erie.gov](mailto:Michael.Hillery@erie.gov)>  
**Sent:** Monday, April 15, 2024 10:02 AM  
**To:** Melissa D. Wischerath <[mwischerath@lglaw.com](mailto:mwischerath@lglaw.com)>  
**Cc:** Williams III, Paul J. <[Paul.Williams@erie.gov](mailto:Paul.Williams@erie.gov)>  
**Subject:** RE: Activity in Case 1:22-cv-00815-JLS-JJM Doe v. Erie County et al Order on Motion for Discovery

Okay, I misunderstood, I thought you knew the names. I liked your suggestion that all counsel conference the matter in the near future. Our office plans on talking with JP before turning any materials over, as I think I mentioned in our last conversation. We will want to get his take on the possibility of turning all materials over under seal, as was done by the order you sent me regarding another case.

--

**Michael J. Hillery** | Assistant District Attorney  
Erie County | District Attorney  
25 Delaware Ave., 7th Floor | Buffalo, NY 14202  
P:+1(716)858-2473 | F:+1(716)858-7425  
[Michael.Hillery@erie.gov](mailto:Michael.Hillery@erie.gov) | <http://www.erie.gov>

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**From:** Melissa D. Wischerath <[mwischerath@lglaw.com](mailto:mwischerath@lglaw.com)>

**Sent:** Monday, April 15, 2024 9:53 AM

**To:** Hillery, Michael J. <[Michael.Hillery@erie.gov](mailto:Michael.Hillery@erie.gov)>

**Cc:** Williams III, Paul J. <[Paul.Williams@erie.gov](mailto:Paul.Williams@erie.gov)>

**Subject:** RE: Activity in Case 1:22-cv-00815-JLS-JJM Doe v. Erie County et al Order on Motion for Discovery

**[Caution: this email is not from an Erie County employee: attachments or links may not be safe.]**

I'm sure I know at least one of the complainants names from the media, initial disclosures, and discovery with the County. That being said, obtaining authorizations seems like a big hurdle especially not knowing who the complainants are in your file versus the one's I am aware of in this civil action. Thus, I think the process may prove unworkable. In the absence of that, what do you propose?



**From:** Hillery, Michael J. <[Michael.Hillery@erie.gov](mailto:Michael.Hillery@erie.gov)>

**Sent:** Monday, April 15, 2024 9:40 AM

**To:** Melissa D. Wischerath <[mwischerath@lglaw.com](mailto:mwischerath@lglaw.com)>

**Cc:** Williams III, Paul J. <[Paul.Williams@erie.gov](mailto:Paul.Williams@erie.gov)>

**Subject:** RE: Activity in Case 1:22-cv-00815-JLS-JJM Doe v. Erie County et al Order on Motion for Discovery

Thank you, Melissa.

We touched on this in our phone conversation last week, but you said you believe you know the names of the complainants whose file materials you are particularly interested in.

In talking briefly with Paul Williams after our conversation, I can tell you that if you could provide us with authorizations from each of those complainants for release of their content, that would probably expedite our response.

I'll look forward to touching base with you sometime soon.

--

**Michael J. Hillery** | Assistant District Attorney  
Erie County | District Attorney  
25 Delaware Ave., 7th Floor | Buffalo, NY 14202  
P: +1(716)858-2473 | F: +1(716)858-7425  
[Michael.Hillery@erie.gov](mailto:Michael.Hillery@erie.gov) | <http://www.erie.gov>

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**From:** Melissa D. Wischerath <[mwischerath@lglaw.com](mailto:mwischerath@lglaw.com)>  
**Sent:** Monday, April 15, 2024 9:06 AM  
**To:** Hillery, Michael J. <[Michael.Hillery@erie.gov](mailto:Michael.Hillery@erie.gov)>  
**Subject:** FW: Activity in Case 1:22-cv-00815-JLS-JJM Doe v. Erie County et al Order on Motion for Discovery

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Below is the minute order regarding the sealing of PREA materials.



---

**From:** [webmaster@nywd.uscourts.gov](mailto:webmaster@nywd.uscourts.gov) <[webmaster@nywd.uscourts.gov](mailto:webmaster@nywd.uscourts.gov)>  
**Sent:** Monday, September 25, 2023 1:45 PM  
**To:** [Courtmail@nywd.uscourts.gov](mailto:Courtmail@nywd.uscourts.gov)  
**Subject:** Activity in Case 1:22-cv-00815-JLS-JJM Doe v. Erie County et al Order on Motion for Discovery

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U.S. DISTRICT COURT

U.S. District Court, Western District of New York

## Notice of Electronic Filing

The following transaction was entered on 9/25/2023 at 1:44 PM EDT and filed on 9/25/2023

**Case Name:** Doe v. Erie County et al  
**Case Number:** [1:22-cv-00815-JLS-JJM](#)  
**Filer:**  
**Document Number:** 37(No document attached)

### Docket Text:

**TEXT ORDER:** As agreed to by counsel at today's telephonic conference, plaintiff's letter motion for discovery [33] is denied as premature. With the exception of the redacted Prison Rape Elimination Act ("PREA") materials publicly available in the State action, the PREA materials and the policies and procedures of the Erie County Holding Center addressed in plaintiff's motion [33] will be produced to her and remain under seal for the time being. If

necessary, issues as to which party bears the burden of demonstrating that these materials should remain (or no longer remain) under seal, and whether that burden has been met, will be resolved at a later date. To the extent that the parties seek an extension of the Case Management Order [29] deadlines, they shall file a motion demonstrating "good cause" for the extension. See id. at 3. SO ORDERED. Issued by Hon. Jeremiah J. McCarthy on 9/25/23. (MDY)

**1:22-cv-00815-JLS-JJM Notice has been electronically mailed to:**

Jennifer C. Persico [jpersico@lippes.com](mailto:jpersico@lippes.com), [mhurley@lippes.com](mailto:mhurley@lippes.com), [skemnitzer@lippes.com](mailto:skemnitzer@lippes.com)

Melissa Dorothy Wischerath [mwischerath@lglaw.com](mailto:mwischerath@lglaw.com), [sconway@lglaw.com](mailto:sconway@lglaw.com)

James Peter Blenk [jblenk@lippes.com](mailto:jblenk@lippes.com), [jpblenk@gmail.com](mailto:jpblenk@gmail.com), [skemnitzer@lippes.com](mailto:skemnitzer@lippes.com)

**1:22-cv-00815-JLS-JJM Notice has been delivered by other means to:**

Robert M Dee  
3959 Eckhardt Rd.  
Hamburg, NY 14025